

REMARKS

Claims 20-39 and 41-45 are pending. Claim 46 is newly submitted herewith. The *Office Action* mailed on July 16, 2008 noted that the Applicant's Response filed on June 12, 2008 (*Response C*) failed to place the application in condition for allowance.

The Examiner has rejected claims 20, 35-37, and 45 under 35 U.S.C. § 112, ¶ 1, and claims 20, 22-39, and 41-45 under 35 U.S.C. § 103(a) over U.S. patent number 6,202,060 (Tran) and U.S. patent number 5,835,861 (Whiteside). Claim 21 stands rejected under 35 U.S.C. § 103(a) over Tran in view of Whiteside and U.S. patent number 6,021,432 (Sizer).

Statement of the Substance of the Interview

On October 9, 2008, the Applicant's undersigned representative conducted a telephonic interview with Examiner Sheleheda. The Applicant's undersigned representative thanks the Examiner for his time and courtesy.

The parties discussed the pending rejections of claim 20 under 35 U.S.C. § 112, ¶ 1 and 35 U.S.C. § 103(a) over Tran and Whiteside. Agreement was generally reached that Tran and Whiteside do not teach "notifying a user." Agreement was not reached regarding the rejection of claim 20 under 35 U.S.C. § 112, ¶ 1.

Amendments to the Claims

Independent claim 20 is amended herein. Dependent claims 21-23, 25-27, 33-39, 41, and 45 depend from claim 20 and are amended herein to better comport with amended claim 20. Dependent claims 28-32 depend from claim 20 and are amended herein to improve clarity. No new matter is added through these amendments. Claim 46 is new, and does not recite new matter.

Rejections Under 35 U.S.C. § 112, ¶ 1

The Examiner contends that “[c]laims 20, 35-37, and 45” “fail[] to comply with the written description requirement.” *Office Action*, p. 5.

35 U.S.C. § 112, ¶ 1 rejection of Claim 20

The Examiner stated that “and ‘wherein at least one audio/video content stored in the memory is received over the wireless network’ . . . is not supported in the specification as originally filed.” *Office Action*, p. 6.

The Applicant respectfully disagrees. Nevertheless, in order to speed prosecution, Claim 20 is currently amended. As amended, claim 20 recites:

20. A portable wireless media access device comprising:
- a transceiver configured to transact a wireless communications session over a wireless network;
 - a proximity sensor coupled to the transceiver and configured to scan for, detect, and notify a user of a remote wireless device capable of transacting a wireless communications session with the portable wireless media access device;
 - memory configured to store audio/video content; and
 - a user interface configured to receive instructions related to audio/video content stored in the memory.

Support for “a transceiver configured to transact a wireless communications session” may be found in FIG. 6 and on page 9, lines 2-3. Support for “coupling” between the transceiver and proximity sensor may be found in FIG. 6. Support for “notifying a user” may be found on page 10, line 6.

Claim 20, as amended, does not recite a limitation associated with the receipt of the audio/video content. As such, the Applicant submits that the rejection of claim 20 under 35 U.S.C. § 112, ¶ 1 is overcome.

35 U.S.C. § 112, ¶ 1 rejection of Claims 35-37

The Examiner contends that “there is no support for receiving audio/video content from a content server via a remote wireless device.” (*Office Action*, p. 6-7).

Claims 35-37 depend either directly or indirectly from claim 20. Amended claims 33 -37 recite:

33. The portable wireless media access device of claim 20, wherein the audio/video content is received over the wireless network from a content server.

34. The portable wireless media access device of claim 20, wherein the transceiver is further configured to establish a local area network comprising one or more remote wireless devices detected by the proximity sensor.

35. The portable wireless media access device of claim 33, wherein the audio/video content is received over the wireless network from the content server via one or more remote wireless devices.

36. The portable wireless media access device of claim 20, wherein the audio/video content is received over the wireless network from a remote wireless device detected by the proximity sensor.

37. The portable wireless media access device of claim 34, wherein the audio/video content is received over the wireless network from a first remote wireless device that is communicatively connected to the local area network, the first remote wireless device having received the audio/video content from a second remote wireless device that is communicatively connected to the localized area network.

The *Specification* “provides a portable, handheld device and method for transacting wireless communications sessions for media retrieval and access.” (*Specification*, p. 2, l. 25-27). The *Specification* also states that:

“The device can use standard and/or proprietary data transmission technology to **send and receive full screen video content over a wireless Internet connection.**” *Provisional Specification*, p. 1, l. 18-20, as incorporated into the instant *Specification* at p. 5, l. 14 in the *Amendment* filed June 12, 2008 (emphasis added)

Further, the *Specification* repeatedly cites forming wireless networks using a **variety** of different communication protocols, **including** communication protocols that are **exclusively applicable to “local” wireless devices**. For example, the *Specification* refers to an embodiment in which “the wireless communications session 13 is transacted in accordance with a standard wireless protocol, such as the . . . **Bluetooth** protocol” (p. 5, l. 23-25, emphasis added). Bluetooth is a communications protocol recognized by one of ordinary skill in the art as providing for wireless communications between devices, and is widely used for communication between and among mobile devices.

Further, the Applicant respectfully disagrees with the Examiner’s suggestion of a negative limitation where none exists. The Examiner is alleging that, notwithstanding that the device may form a Bluetooth connection and wirelessly exchange audio/video content, that somehow the audio/video content cannot be exchanged between two devices connected by a Bluetooth connection. No such limitation is recited.

As such, the Applicant submits that the rejections of claims 35-37 under 35 U.S.C. § 112, ¶ 1 are overcome.

35 U.S.C. § 112, ¶ 1 Rejection of claim 45

Claim 45 was rejected for alleged lack of support for “a digital camera configured to record video content for transmission to a remote wireless device via the wireless network” (*Office Action*, p. 8). Claim 45, as amended, recites:

45. The portable wireless media access device of claim 20, further comprising a digital camera configured to record video content for transmission via the wireless network.

The Applicant notes that the capability to wirelessly send and receive video content was explicitly described in the provisional specification (as incorporated by reference in the instant *Specification*): “The device can use standard and/or proprietary data transmission technology **to send and receive full screen video content over a wireless Internet connection.**” *Provisional Specification*, page 1, l. 18-20, as previously incorporated into the instant *Specification* at p. 5, l. 14, emphasis added.

Further, various embodiments include “**a built in camera** for capturing still and full motion digital video images.” *Provisional Specification*, page 1, l. 17, as previously incorporated into the instant *Specification* at p. 8, l. 17, (emphasis added).

As such, the Applicant submits that the rejection of claim 45 under 35 U.S.C. § 112, ¶ 1 is overcome.

35 U.S.C. § 103(a) Rejections per Tran and Whiteside

Claims 20, 22-39, and 41-45 were rejected under 35 U.S.C. § 103(a) over U.S. patent number 6,202,060 (Tran) and U.S. patent number 5,835,861 (Whiteside). Claim 21 was rejected under 35 U.S.C. § 103(a), Tran in view of Whiteside and U.S. patent number 6,021,432 (Sizer).

As amended, claim 20 recites:

20. A portable wireless media access device comprising:

- a transceiver configured to transact a wireless communications session over a wireless network;
- a proximity sensor coupled to the transceiver and configured to scan for, detect, and notify a user of a remote wireless device capable of transacting a wireless communications session with the portable wireless media access device;
- memory configured to store audio/video content; and
- a user interface configured to receive instructions related to audio/video content stored in the memory.

Claim 20 recites, *inter alia*, “notify[ing] a user of a remote wireless device capable of transacting a wireless communications session with the portable wireless media device.” Support for “notifying a user” may be found on page 10, line 6 of the *Specification*.

Neither Tran nor Whiteside, alone or in combination, teaches “notifying a user” as recited in amended claim 20. As such, the Applicant submits that the 35 U.S.C. § 103(a) rejection of claim 20 is now overcome.

In that the 35 U.S.C. § 103(a) rejection of claim 20 is now overcome, the Applicant submits that the Examiner’s 35 U.S.C. § 103(a) of claims depending from claim 20 are also overcome.

CONCLUSION

The Applicant has evidenced proper written description support for each and every claim element. As such, all rejections under 35 U.S.C. §112, ¶ 1 have been overcome.

The Applicant has also evidenced the lack of each and every claim element in the proposed combination of Tran and Whiteside, namely “notifying a user.” As such, all rejections under 35 U.S.C. §103(a) have been overcome.

The Applicant has, therefore, overcome all rejections of record and the Examiner is respectfully requested to allow the presently pending claims. If the Examiner has any questions concerning this amendment or the application in general, the Examiner is invited to contact undersigned counsel concerning the same.

Respectfully submitted,
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